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SUBJECT: CROATIAN GENERALS' WAR CRIMES TRIAL CONTINUES

11. (SBU) Summary and Comment. The case of Croatian Army Generals Rahim Ademi and Mirko Norac, whose trial began in the summer, continued this week. It is the first, and likely only, case to be transferred to Croatia by the ICTY (a so-called 11 bis case). As such, it is seen as a test of Croatia's judicial system and its ability to try Croatian war heroes in an unbiased manner. Ademi and Norac are the highest-ranking Croatian officers to be tried for war crimes in Croatian courts. The combined case charges the officers with both individual and command responsibility during the 1993 Medak Pocket operation. According to the indictment, originally brought by the ICTY, the officers are responsible for the deaths of 28 ethnic Serb civilians and the destruction of about 300 buildings after Croatian forces took control of the area. Testimony to date has dredged up issues of political interference into military operations, parallel chains of command, and the split military culture of the time. The trial is open to the public. Regional and local NGOs, the OSCE, and others, including Embassy staff, have attended testimony and praised the proceedings. While the media has been constantly present, the public reaction is muted - a strong contrast to previous trials of Croats for war crimes. The lack of commentary from politicians and local officials, combined with the capabilities of the judge - an Embassy contact who has received USG-funded training and is well-regarded among judicial circles - has ensured the process is controlled and as de-politicized as possible. End Summary and Comment.

Indictment: Command and Individual Responsibility

12. (U) The Medak Pocket operation, executed between 9-17 September, 1993, was aimed at regaining control over a Serb-held area near the town of Gospic in central Croatia. The Croatian indictment (which differs slightly from the ICTY indictment) alleges that during the operation 28 civilians, mostly women and elderly were killed, as were five POWs. Others were seriously injured, and extensive property was destroyed in an organized manner. During the time of the events in question, Norac was Colonel and commander of the 9th Guards Motorized Brigade - the main unit involved in the Medak Pocket operation along with the military police. (Note: Norac is currently serving a 12-year sentence for a separate incident in which 50 ethnic Serb civilians were killed in the Gospic area. End Note.) Ademi was Brigadier and acting commander of the Gospic Military Unit and allegedly central in planning, ordering, and executing the operation. Both are accused of individual criminal responsibility for the attacks as well as for command responsibility. The ICTY referred the case to Croatia in September 2005 at the request of Croatian prosecutors, and transferred most documents the same year. The trial began in June of this year and will likely continue into 2008.

Non-Controversial Proceedings

13. (SBU) Although the testimony has captured the attention of the public, OSCE and other observers note the lack of controversy on the proceedings and praise the process to date. OSCE trial monitors are present at all hearings, as per its agreement with the ICTY. Judge Marin Mrcela is widely respected for his competence as a criminal judge and control over his court. He is a close contact of Post; with past USG support he designed judicial training programs and drafted an ethic code for judges and publications on various judicial issues. He gained some notoriety in 1996 when, as a young judge in his mid-30s, he rejected then-president Franjo Tudjmann's charges against a local satirical newspaper for slander. Since then Mrcela has developed a reputation of being fair, unbiased, and efficient, and has quashed any outbursts, protests, or improper behavior. The proceedings have been a contrast to trials of Croats for war crimes in past years, such as the Lora trial (at which protesters regularly disrupted the court and city officials spoke about assisting in prisoners' release) or the Glavas trial which sparked reactions from politicians and pockets of public support for the defendant. The cumbersome trial process, however, highlights some deficiencies in the court system. For example, not all witnesses can be located and contacted, and the judge must repeat the full testimony of each witness in order for it to be entered into the official record, effectively doubling court time. As a result, the case will probably be drawn out until early 2008.

Parallel Lines of Command

14. (SBU) The key issue in question is who was in command of military forces that committed crimes during Medak Pocket. Ademi's defense claims Norac was in command of Sector One, established to carry out the operation. Norac's defense rests on the stated command structure, which places Norac

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subordinate to Ademi. However, the question raises a more sensitive point of conflict within the Army at the time: Witness testimony has painted a picture of parallel lines of command at the time of the operation, alluding to a split of "old guard" and "new guard" in the army at the time. Some witnesses and commentators have placed Ademi in the "old guard" camp - former JNA officers (led by Generals Antun Tus and Petar Stipetic), while Norac was part of the "new guard", led by Defense Minister Gojko Susak and supported in part by the diaspora. Susak allegedly favored the new, non-JNA officers and quickly promoted and protected new, young officers such as Norac, who was in his early 20s at the time.

Brigadier Isidor Cesnjaj, Ademi's former superior officer, testified that Norac had direct contact with then-Defense Minister Gojko Susak and was connected to Generals Ante Gotovina, Janko Bobetko and Mladen Markac, Admiral Davor Domazet (a.k.a. Loso), and others.

15. (SBU) Ademi, an ethnic Albanian, was allegedly never accepted by the "new guard." One commentator called him "the loneliest of all Croatian officers accused of war crimes," referring to the lack of support from so-called hard-line veterans and his refusal to use his case for political purposes or rallying cries. Cesnjaj recalled that various politicians and officers would visit the region and call the former JNA officers "reds" and "Commies". Former infantry officer Rudolf Brlecic concurred, and also characterized Norac as young, inexperienced, brave, and arrogant, and ultimately in control of the Lika region, where the operation was located. He recalled that Norac was recommended both for reassignment and for training in the U.S., but the moves were blocked by Susak.

16. (SBU) Domazet testified against this parallel chain of command, denying any confusion in the structure and implying Ademi was responsible for command of the operation. At the same time, he justified the operation as necessary to prevent further Serb attacks on the town of Gospic, and denied Croatian forces had killed any civilians, outrageously

suggesting that Canadian UNPROFOR troops, at that time deployed in the Gaspic area, might have been the killers of the Serb civilians in question. In addition, the issue of command of the special police in the area remains important to the investigation and to ICTY's original case, which indicated that then-Interior Minister Ivan Jarnjak and special police force commander Mladen Markac were responsible for some events. (Markac is currently awaiting trial at the ICTY on charges related to Operation Storm). Markac and Jarnjak, however, have both supported Loso's testimony that Ademi was in command.

BRADTKE